

Chapter 4 1995 Bonding

Part 1 Capital Improvement Bonds

63B-4-101 State Bonding Commission authorized to issue general obligation bonds.

The commission created under Section 63B-1-201 may issue and sell general obligation bonds of the state pledging the full faith, credit, and resources of the state for the payment of the principal of and interest on the bonds to provide funds to the division.

Enacted by Chapter 329, 1995 General Session

63B-4-102 Maximum amount -- Projects authorized.

(1) The total amount of bonds issued under this part may not exceed \$45,300,000.

- (2)
- (a) Proceeds from the issuance of bonds shall be provided to the division to provide funds to pay all or part of the cost of acquiring and constructing the projects listed in this Subsection (2).
 - (b) These costs may include the cost of acquiring land, interests in land, easements and rights-of-way, improving sites, and acquiring, constructing, equipping, and furnishing facilities and all structures, roads, parking facilities, utilities, and improvements necessary, incidental, or convenient to the facilities, interest estimated to accrue on these bonds during the period to be covered by construction of the projects plus a period of six months after the end of the construction period, and all related engineering, architectural, and legal fees.
 - (c) For the division, proceeds shall be provided for the following:

CAPITAL IMPROVEMENTS

Alterations, Repairs, and Improvements	\$7,200,000
TOTAL IMPROVEMENTS	\$7,200,000

CAPITAL AND ECONOMIC DEVELOPMENT

PROJECT DESCRIPTION	AMOUNT FUNDED	ESTIMATED OPERATIONS AND MAINTENANCE COSTS
Corrections - Uinta IVA	\$11,300,000	\$212,800
Utah County Youth Correctional Facility	\$6,650,000	\$245,000
Ogden Weber Applied Technology Center - Metal Trades	\$5,161,000	\$176,000
Project Reserve Fund	\$3,500,000	None
Weber State University - Browning Center Remodel	\$3,300,000	None
Heber Wells Building Remodel	\$2,000,000	None

Higher Education Davis County - Land Purchase	\$1,600,000	None
National Guard -- Provo Armory	\$1,500,000	\$128,000
Department of Natural Resources - Pioneer Trails Visitor Center	\$900,000	\$65,000
Higher Education Design Projects	\$800,000	Varies depending upon projects selected
Salt Lake Community College - South Valley Planning	\$300,000	None
Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services - Logan Land Purchase	\$120,000	None
TOTAL CAPITAL AND ECONOMIC DEVELOPMENT		\$37,131,000
TOTAL IMPROVEMENTS AND CAPITAL AND ECONOMIC DEVELOPMENT		\$44,331,000

(d) For purposes of this section, operations and maintenance costs:

- (i) are estimates only;
- (ii) may include any operations and maintenance costs already funded in existing agency budgets; and
- (iii) are not commitments by this Legislature or future Legislatures to fund those operations and maintenance costs.

(3)

- (a) The amounts funded as listed in Subsection (2) are estimates only and do not constitute a limitation on the amount that may be expended for any project.
- (b) The board may revise these estimates and redistribute the amount estimated for a project among the projects authorized.
- (c) The commission, by resolution and in consultation with the board, may delete one or more projects from this list if the inclusion of that project or those projects in the list could be construed to violate state law or federal law or regulation.

(4)

- (a) The division may enter into agreements related to these projects before the receipt of proceeds of bonds issued under this chapter.
- (b) The division shall make those expenditures from unexpended and unencumbered building funds already appropriated to the Capital Projects Fund.
- (c) The division shall reimburse the Capital Projects Fund upon receipt of the proceeds of bonds issued under this chapter.
- (d) The commission may, by resolution, make any statement of intent relating to that reimbursement that is necessary or desirable to comply with federal tax law.

(5)

- (a) For those projects for which only partial funding is provided in Subsection (2), it is the intent of the Legislature that the balance necessary to complete the projects be addressed by future Legislatures, either through appropriations or through the issuance or sale of bonds.

- (b) For those phased projects, the division may enter into contracts for amounts not to exceed the anticipated full project funding but may not allow work to be performed on those contracts in excess of the funding already authorized by the Legislature.
- (c) Those contracts shall contain a provision for termination of the contract for the convenience of the state.
- (d) It is also the intent of the Legislature that this authorization to the division does not bind future Legislatures to fund projects initiated from this authorization.

Amended by Chapter 196, 2014 General Session

63B-4-103 Use of bond proceeds for issuance and other costs.

The proceeds of bonds issued under this chapter shall be used for the purposes described in Section 63B-4-102 and to pay all or part of any cost incident to the issuance and sale of the bonds including, without limitation, printing, registration and transfer costs, legal fees, trustees' fees, financial advisors' fees, and underwriters' discounts.

Enacted by Chapter 329, 1995 General Session

63B-4-104 Manner of issuance -- Amounts, interest, and maturity.

- (1) Bonds issued under this chapter may be authorized, sold, and issued at times and in a manner determined by the commission by resolution.
- (2) Bonds may be issued in one or more series, in amounts, and shall bear dates, interest rates, including a variable rate, and maturity dates as the commission determines by resolution.
- (3) A bond issued may not mature later than 20 years after the date of final passage of this chapter.

Enacted by Chapter 329, 1995 General Session

63B-4-105 Terms and conditions of sale -- Plan of financing -- Signatures -- Replacement -- Registration -- Federal rebate.

- (1) In the issuance of bonds, the commission may determine by resolution:
 - (a) the manner of sale, including public or private sale;
 - (b) the terms and conditions of sale, including price, whether at, below, or above face value;
 - (c) denominations;
 - (d) form;
 - (e) manner of execution;
 - (f) manner of authentication;
 - (g) place and medium of purchase;
 - (h) redemption terms; and
 - (i) other provisions and details it considers appropriate.
- (2) The commission may by resolution adopt a plan of financing, which may include terms and conditions of arrangements entered into by the commission on behalf of the state with financial and other institutions for letters of credit, standby letters of credit, reimbursement agreements, and remarketing, indexing, and tender agent agreements to secure the bonds, including payment from any legally available source of fees, charges, or other amounts coming due under the agreements entered into by the commission.
- (3)

- (a) Any signature of a public official authorized by resolution of the commission to sign the bonds may be a facsimile signature of that official imprinted, engraved, stamped, or otherwise placed on the bonds.
 - (b) If all signatures of public officials on the bonds are facsimile signatures, provision shall be made for a manual authenticating signature on the bonds by or on behalf of a designated authentication agent.
 - (c) If an official ceases to hold office before delivery of the bonds signed by that official, the signature or facsimile signature of the official is nevertheless valid for all purposes.
 - (d) A facsimile of the state seal may be imprinted, engraved, stamped, or otherwise placed on the bonds.
- (4)
- (a) The commission may enact resolutions providing for the replacement of lost, destroyed, or mutilated bonds, or for the exchange of bonds after issuance for bonds of smaller or larger denominations.
 - (b) Bonds in changed denominations shall:
 - (i) be exchanged for the original bonds in like aggregate principal amounts and in a manner that prevents the duplication of interest; and
 - (ii) bear interest at the same rate, mature on the same date, and be as nearly as practicable in the form of the original bonds.
- (5)
- (a) Bonds may be registered as to both principal and interest or may be in a book entry form under which the right to principal and interest may be transferred only through a book entry.
 - (b) The commission may provide for the services and payment for the services of one or more financial institutions or other entities or persons, or nominees, within or outside the state, for the authentication, registration, transfer, including record, bookkeeping, or book entry functions, exchange, and payment of the bonds.
 - (c) The records of ownership, registration, transfer, and exchange of the bonds, and of persons to whom payment with respect to the obligations is made, are private records as provided in Section 63G-2-302 or protected records as provided in Section 63G-2-305.
 - (d) The bonds and any evidences of participation interest in the bonds may be issued, executed, authenticated, registered, transferred, exchanged, and otherwise made to comply with Title 15, Chapter 7, Registered Public Obligations Act, or any other act of the Legislature relating to the registration of obligations enacted to meet the requirements of Section 149 of the Internal Revenue Code of 1986, as amended, or any successor to it, and applicable regulations.
- (6) The commission may:
- (a) by resolution, provide for payment to the United States of whatever amounts are necessary to comply with Section 148 (f) of the Internal Revenue Code of 1986, as amended; and
 - (b) enter into agreements with financial and other institutions and attorneys to provide for:
 - (i) the calculation, holding, and payment of those amounts; and
 - (ii) payment from any legally available source of fees, charges, or other amounts coming due under any agreements entered into by the commission.

Amended by Chapter 382, 2008 General Session

63B-4-106 Constitutional debt limitation.

- (1) The commission may not issue bonds under this chapter in an amount that violates the limitation described in Article XIV, Section 1, Utah Constitution.

- (2) For purposes of applying the debt limitation contained in Article XIV, Section 1, Utah Constitution, the value of the taxable property in Utah is considered to be 100% of the fair market value of the taxable property of the state, as computed from the last assessment for state purposes previous to the issuance of the bonds.

Enacted by Chapter 329, 1995 General Session

63B-4-107 Tax levy -- Abatement of tax.

- (1) Each year after issuance of the bonds and until all outstanding bonds are retired, there is levied a direct annual tax on all real and personal property within the state subject to state taxation, sufficient to pay:
 - (a) applicable bond redemption premiums, if any;
 - (b) interest on the bonds as it becomes due; and
 - (c) principal of the bonds as it becomes due.
- (2)
 - (a) The State Tax Commission shall fix the rate of the direct annual tax levy each year.
 - (b) The tax shall be collected and the proceeds applied as provided in this chapter.
- (3) The direct annual tax imposed under this section is abated to the extent money is available from sources, other than ad valorem taxes in the sinking fund, for the payment of bond interest, principal, and redemption premiums.

Enacted by Chapter 329, 1995 General Session

63B-4-108 Creation of sinking fund.

- (1) There is created a sinking fund, to be administered by the state treasurer, entitled the "1995 General Obligation Bonds Sinking Fund."
- (2) All money deposited in the sinking fund, from whatever source, shall be used to pay debt service on the bonds.
- (3) The proceeds of all taxes levied under this chapter are appropriated to this fund.
- (4) The state treasurer may create separate accounts within the sinking fund for each series of bonds issued.

Enacted by Chapter 329, 1995 General Session

63B-4-109 Payment of interest, principal, and redemption premiums.

- (1) The Division of Finance shall draw warrants on the state treasury before any interest, principal, or redemption premiums become due on the bonds.
- (2) After receipt of the warrants, the state treasurer shall:
 - (a) promptly pay the warrants from funds within the sinking fund; and
 - (b) immediately transmit the amount paid to the paying agent for the bonds.

Enacted by Chapter 329, 1995 General Session

63B-4-110 Investment of sinking fund money.

- (1) The state treasurer may, by following the procedures and requirements of Title 51, Chapter 7, State Money Management Act, invest any money contained in the sinking fund until it is needed for the purposes for which the fund is created.

- (2) Unless otherwise provided in the resolution of the commission authorizing the issuance of bonds under this chapter, the treasurer shall retain all income from the investment of any money contained in the sinking fund in the sinking fund and use it for the payment of debt service on the bonds.

Enacted by Chapter 329, 1995 General Session

63B-4-111 Bond proceeds -- Deposits -- Investment -- Disposition of investment income and unexpended proceeds.

- (1)
 - (a) Proceeds from the sale of bonds issued under this chapter shall be deposited within one or more accounts as determined by resolution of the commission.
 - (b) The state treasurer shall administer and maintain these accounts unless otherwise provided by the commission by resolution.
 - (c) The commission by resolution may provide for the deposit of the money with a trustee and the administration, disposition, or investment of the money by this trustee.
- (2)
 - (a) The commission by resolution shall provide for the kinds of investments in which the proceeds of bonds issued under this chapter may be invested.
 - (b) Income from the investment of proceeds of bonds issued under this chapter shall be applied as provided by resolution of the commission.
- (3) Any unexpended bond proceeds issued under this chapter shall be deposited, upon completion of the purposes for which the bonds were issued, in the sinking fund, unless otherwise provided in the resolution of the commission authorizing the issuance of bonds under this chapter.

Amended by Chapter 342, 2011 General Session

63B-4-112 Refunding of bonds.

- (1) The commission may provide for the refunding of any of the bonds in accordance with Title 11, Chapter 27, Utah Refunding Bond Act.
- (2) For purposes of Title 11, Chapter 27, Utah Refunding Bond Act, the state of Utah is considered the public body and the commission its governing body.

Enacted by Chapter 329, 1995 General Session

63B-4-113 Certification of satisfaction of conditions precedent -- Conclusiveness.

- (1) The commission may not issue any bond under this chapter until it finds and certifies that all conditions precedent to issuance of the bonds have been satisfied.
- (2) A recital on any bond of this finding and certification conclusively establishes the completion and satisfaction of all conditions precedent.

Enacted by Chapter 329, 1995 General Session

63B-4-114 Tax exemption.

The bonds issued under this chapter, any interest paid on the bonds, and any income from the bonds are not taxable in this state for any purpose, except for the corporate franchise tax.

Enacted by Chapter 329, 1995 General Session

63B-4-115 Legal investment status.

Bonds issued under this chapter are legal investments for all state trust funds, insurance companies, banks, trust companies, and the State School Fund and may be used as collateral to secure legal obligations.

Enacted by Chapter 329, 1995 General Session

63B-4-116 Publication of resolution or notice -- Limitation on actions to contest legality.

- (1) The commission may:
 - (a) publish any resolution it adopts under this chapter:
 - (i) once in a newspaper having general circulation in Utah; and
 - (ii) as required in Section 45-1-101; or
 - (b) in lieu of publishing the entire resolution, publish a notice of bonds to be issued, titled as such, containing the information required in Subsection 11-14-316(2).
- (2)
 - (a) Any interested person, for 30 days after the date of publication, may contest:
 - (i) the legality of the resolution;
 - (ii) any of the bonds authorized under it; or
 - (iii) any of the provisions made for the security and repayment of the bonds.
 - (b) After 30 days, a person may not contest the legality of the resolution, any of the bonds authorized under it, or any of the provisions made for the security and repayment of the bonds for any cause.

Amended by Chapter 388, 2009 General Session

63B-4-117 Report to Legislature.

The governor shall report the commission's proceedings to each annual general session of the Legislature in his budget for as long as bonds issued under this chapter remain outstanding.

Enacted by Chapter 329, 1995 General Session

Part 2

Capital Facilities Bonds

63B-4-201 Legislative intent statements -- Capital facilities.

- (1)
 - (a) It is the intent of the Legislature that the University of Utah use institutional and other funds to plan, design, and construct two campus child care centers under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.
 - (b) The university shall work with Salt Lake City and the surrounding neighborhood to ensure site compatibility for future recreational development by the city.
- (2) It is the intent of the Legislature that the University of Utah use institutional funds to plan, design, and construct:

- (a) the Union Parking structure under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director;
 - (b) the stadium renovation under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director;
 - (c) the Huntsman Cancer Institute under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director;
 - (d) the Business Case Method Building under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and
 - (e) the Fine Arts Museum expansion under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.
- (3) It is the intent of the Legislature that Utah State University use institutional funds to plan, design, and construct:
- (a) a student health services facility under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director;
 - (b) a women's softball field under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director;
 - (c) an addition to the Nutrition and Food Services Building under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and
 - (d) a Human Resource Research Center under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.
- (4) It is the intent of the Legislature that Weber State University use institutional funds to plan, design, and construct:
- (a) a track renovation under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and
 - (b) the Dee Events Center offices under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.
- (5) It is the intent of the Legislature that Southern Utah University use:
- (a) institutional funds to plan, design, and construct an institutional residence under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and
 - (b) project revenues and other funds to plan, design, and construct the Shakespearean Festival support facilities under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.
- (6) It is the intent of the Legislature that Dixie College use institutional funds to plan, design, and construct an institutional residence under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.
- (7) It is the intent of the Legislature that the Division of Forestry, Fire, and State Lands use federal and other funds to plan, design, and construct a wetlands enhancement facility under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.
- (8)

- (a) As provided in Subsection 63A-5-209(2), the funds appropriated to the Project Reserve Fund may only be used for the award of contracts in excess of the construction budget if these funds are required to meet the intent of the project.
- (b) It is the intent of the Legislature that:
 - (i) up to \$2,000,000 of the amount may be used to award the construction contract for the Ogden Court Building; and
 - (ii) the need for any funds remaining as of December 31, 1995 be reviewed by the 1996 Legislature.
- (9)
 - (a) It is the intent of the Legislature that the State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, issue or execute obligations or enter into or arrange for a lease purchase agreement in which participation interests may be created to provide up to \$539,700 for the purchase and demolition of the Keyston property and construction of parking facilities adjacent to the State Board of Education building in Salt Lake City, with additional amounts necessary to:
 - (i) pay costs of issuance;
 - (ii) pay capitalized interest; and
 - (iii) fund any debt service reserve requirements.
 - (b) It is the intent of the Legislature that the authority seek out the most cost effective and prudent lease purchase plan available with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of Management and Budget.
- (10)
 - (a) It is the intent of the Legislature that the money appropriated for Phase One of the Remodeling/Life Safety Upgrades of the Browning Fine Arts Center at Weber State University is to include design of full code compliance, life safety, space necessary to maintain required programs, and seismic upgrades.
 - (b) The design shall identify the full scope and cost of Phase Two of the remodeling for funding consideration in the fiscal year 1997 budget cycle.
- (11) It is the intent of the Legislature that:
 - (a) the fiscal year 1996 appropriation for the Davis County Higher Education land purchase includes up to \$250,000 for planning purposes;
 - (b) the Division of Facilities Construction and Management, the Board of Regents, and the assigned institution of higher education work jointly to ensure the following elements are part of the planning process:
 - (i) projections of student enrollment and programmatic needs for the next 10 years;
 - (ii) review and make recommendations for better use of existing space, current technologies, public/private partnerships, and other alternatives as a means to reduce the need for new facilities and still accommodate the projected student needs; and
 - (iii) use of a master plan that includes issues of utilities, access, traffic circulation, drainage, rights of way, future developments, and other infrastructure items considered appropriate; and
 - (c) every effort is used to minimize expenditures for this part until a definitive decision has been made by BRACC relative to Hill Air Force Base.
- (12)
 - (a) It is the intent of the Legislature that the State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, issue or execute obligations or enter into or arrange for a lease purchase agreement in which participation

interests may be created, to provide up to \$7,400,000 for the acquisition and improvement of the Human Services Building located at 120 North 200 West, Salt Lake City, Utah, with associated parking for the Department of Human Services together with additional amounts necessary to:

- (i) pay costs of issuance;
 - (ii) pay capitalized interest; and
 - (iii) fund any debt service reserve requirements.
- (b) It is the intent of the Legislature that the authority seek out the most cost effective and prudent lease purchase plan available with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of Management and Budget.

(13)

- (a) It is the intent of the Legislature that the State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, issue or execute obligations or enter into or arrange for a lease purchase agreement in which participation interests may be created to provide up to \$63,218,600 for the construction of a Salt Lake Courts Complex together with additional amounts necessary to:
- (i) pay costs of issuance;
 - (ii) pay capitalized interest; and
 - (iii) fund any debt service reserve requirements.
- (b) It is the intent of the Legislature that the authority seek out the most cost effective and prudent lease purchase plan available with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of Management and Budget.
- (c) It is the intent of the Legislature that the Division of Facilities Construction and Management lease land to the State Building Ownership Authority for the construction of a Salt Lake Courts Complex.

(14) It is the intent of the Legislature that:

- (a) the Board of Regents use the higher education design project money to design no more than two higher education projects from among the following projects:
- (i) Utah State University Eastern - Student Center;
 - (ii) Snow College - Noyes Building;
 - (iii) University of Utah - Gardner Hall;
 - (iv) Utah State University - Widtsoe Hall; or
 - (v) Southern Utah University - Physical Education Building; and
- (b) the higher education institutions that receive approval from the Board of Regents to design projects under this chapter design those projects under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(15) It is the intent of the Legislature that:

- (a) the Board of Regents may authorize the University of Utah to use institutional funds and donated funds to design Gardner Hall; and
- (b) if authorized by the Board of Regents, the University of Utah may use institutional funds and donated funds to design Gardner Hall under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

- (16) It is the intent of the Legislature that the Division of Facilities Construction and Management use up to \$250,000 of the capital improvement money to fund the site improvements required at the San Juan campus of the Utah State University Eastern.

Amended by Chapter 144, 2016 General Session

Part 3

Wasatch Mountain State Park Bonds

63B-4-301 Bonds for golf course at Wasatch Mountain State Park.

- (1) The State Building Ownership Authority under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$2,500,000 for a new nine-hole golf course at Wasatch Mountain State Park for the Division of Parks and Recreation, together with additional amounts necessary to:
- (a) pay costs of issuance;
 - (b) pay capitalized interest; and
 - (c) fund any debt service reserve requirements.
- (2)
- (a) The State Building Ownership Authority shall work cooperatively with the Division of Parks and Recreation to seek out the most cost effective and prudent lease purchase plan available.
 - (b) The state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of Management and Budget shall provide technical assistance to accomplish the purpose specified in Subsection (2)(a).

Amended by Chapter 310, 2013 General Session